

60.63

14 Citations
T. H. G. P.

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-190771

DATE April 17, 1978

MATTER OF: North American Van Lines

DIGEST:

1. Generally, no particular form is required for filing a claim, and this Office, in the past, has exercised its discretion in establishing the quantum of evidentiary support necessary to certify a claim.
2. Subrogation applies where a party is compelled to pay the debt of a third person to protect his own right or interest or to save his own property.
3. Doctrine of subrogation never lies where one who is merely a volunteer pays the debt of another.

Carolyn May, an authorized certifying officer of the U. S. General Accounting Office (GAO), has requested an advance decision on the propriety of certifying two vouchers totaling \$8,308.32 for payment. The vouchers were presented for payment by North American Van Lines (North American) and cover export packing and crating charges and line-haul transportation charges for a shipment of household goods of a GAO employee, Wayne Tucker, pursuant to his permanent change of station from Virginia Beach, Virginia, to Panama City, Panama.

Ms. May, as an authorized certifying officer, is entitled to an advance decision by the Comptroller General on the question of law whether the transportation charges should be certified for payment. 31 U.S.C. 82d (1970). And as required by our procedures, Ms. May has submitted the original vouchers presented for certification. 52 Comp. Gen. 83 (1972).

Ms. May states that the two vouchers are not proper in that (1) the packing and crating charges are billed on a Standard Form 1113 rather than on a Standard Form 1034, the one prescribed by our regulations; (2) the bill for line-haul transportation charges includes an excess valuation charge; and (3) the voucher for line-haul charges is not supported by a Government bill of lading (GBL) contract of carriage and does not show a vessel sailing date.

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This Office as a general rule requires that all claims against the Government be supported by the best evidence available. And generally no particular form is required for filing a claim. 4 C.F.R. 31.2 (1977). But in the past, we have exercised our discretion in establishing the quantum of evidentiary support necessary to certify a claim. 55 Comp. Gen. 402 (1975). Thus, the mere fact that a claim is presented on the wrong form ordinarily would not prevent certification for payment. However, other facts prevent certifying the two vouchers for payment.

The record shows that the Supply and Transportation Division, Department of State, acted as GAO's agent in arranging for the packing, crating and transportation of Mr. Tucker's household goods. A contract for packing and crating was made by the Department of State with A. J. Beninato & Sons, Inc. (Beninato), Virginia Beach, Virginia. The contractual document used by the Department of State was its Transportation Services Request Authorization No. A086432, dated June 1, 1977. The authorization provides in block 7(a) as follows:

"INSTRUCTIONS REGARDING EXPORT PACKED EFFECTS.

When services are requested for export packing of household effects for overseas surface shipment and when the packing services have been completed, submit the packing list in four copies to the Despatch Agent indicated in block 7(b). The agent will forward further instructions to you. **DO NOT MARK CONTAINER(S) OR START SHIPMENT ENROUTE UNTIL SUCH INSTRUCTIONS HAVE BEEN RECEIVED.**"

Block 7(b) of the authorization states the address of the U. S. Despatch Agent in Baltimore, Maryland.

Beninato disregarded the routing and notice instructions contained in the authorization and gave the shipment to North American. North American, in turn, tendered the shipment to United States Lines, Inc. (U. S. Lines), at Norfolk, Virginia, for further shipment to the final destination. North American now bills the Government on one voucher for \$6,301.92 for the line-haul transportation charges, and on another voucher for \$2,006.40, the packing and crating charges, for a total charge of \$8,308.32.

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The voucher for packing and crating charges of \$2,006.40 is supported by Transportation Services Request Authorization No. A-086432, dated June 1, 1977, two inventories of Mr. Tucker's household goods, one prepared at origin and another at destination, and a receipted bill showing that North American paid Beninato a sum which included the \$2,006.40. Thus, this evidence of payment by North American of a claim of Beninato against the United States indicates that North American is claiming payment of \$2,006.40 from the United States as a subrogee of Beninato.

The doctrine of subrogation applies where one person pays a debt for which another is primarily liable provided that the payment was made under compulsion or for the protection of some interest of the one making the payment and in discharge of an existing liability; it applies where a party is compelled to pay the debt of a third person to protect his own right or interest, or to save his own property. There is no evidence here that North American was compelled to pay the claim of Beninato against the United States. In fact, it seems clear that North American was a volunteer and it is well settled that subrogation never lies where one who is merely a volunteer pays the debt of one person to another. See Cagle, Inc. v. Sammons, 254 N.W. 2d 398, 401 (Neb. 1977). Thus, the voucher for \$2,006.40 cannot be certified for payment and should be returned to North American.

The voucher for line-haul transportation charges of \$6,301.92 is supported by a copy of North American's unsigned freight forwarding contract No. 868-818, and a copy of ocean bill of lading No. 4002 dated June 29, 1977, issued by United States Lines, Inc.

The freight forwarding contract shows Beninato as booking and origin agent and Mr. Tucker as the "customer," a term defined in the contract as including the consignee, consignor, or owner of the goods. It also indicates that the charges are to be billed to GAO. There is no evidence that the voucher for \$6,301.92 includes a valuation charge of \$364.80.

Neither the voucher nor its supporting papers evidence a contract between North American and the Government or any of its agencies. Nor does it bind Mr. Tucker--there is no evidence that he had any knowledge of the contract (including the excess valuation charge). The voucher for \$6,301.92 cannot be certified for payment and should be returned to North American.

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It seems unquestioned that Beninato is due \$2,003.40, under its contract with the Department of State. Thus, if a properly supported bill (see block 9 of Authorization No. A086432) is presented by Beninato for those services, it may be certified for payment, if otherwise correct.

The documents supporting both of North American's vouchers show that Beninato, who had possession of Mr. Tucker's household goods under its contract with the Department of State, gave those goods to North American who became Beninato's agent in arranging for the line-haul transportation to Panama City, Panama, where they were delivered to Mr. Tucker, apparently without incident.

Beninato's contract with the Department of State refers to Mr. Tucker's Travel Authorization number. And under 5 U.S.C. 5724 (1976) and GAO's implementing regulations, GAO Order 0300.1, effective March 24, 1976, GAO would have been required, among other things, to pay the cost of transporting, packing and crating up to a net weight of 11,000 pounds of Mr. Tucker's household goods. Since GAO has received the benefit of the services arranged by Beninato without authorization and since Mr. Tucker has accepted the delivery of his household goods in Panama City, Panama, GAO will consider for payment on a quantum meruit basis a voucher timely filed by Beninato for the charges it considers due supported by the originals of North American's Freight Forwarding Contract No. 866-818, and U. S. Lines ocean bill of lading No. 4002, June 29, 1977, and a statement from Mr. Tucker that his household goods were received at destination without any loss or damage.


Deputy Comptroller General
of the United States

*Memorandum**Heston
T. Heston*

TO : Controller

APR 17 1978

FROM : Comptroller General

SUBJECT: B-190771-O.M.
North American Van Lines, Inc.

Attached is a copy of our decision of today to North American Van Lines, Inc., (North American), in which we hold that two vouchers submitted by North American for transportation charges on a shipment of household goods owned by an employee of the General Accounting Office (GAO) cannot be certified for payment and must be returned to the carrier.

We state further that a properly supported voucher submitted by A. J. Beninato & Sons, Inc., (Beninato), for \$2,006.40, for the authorized export packing and crating can be certified for payment, if otherwise correct. We also say that we will consider a properly supported voucher from Beninato for the unauthorized line-haul transportation of the employee's household goods to Panama City, Panama, since GAO received the benefit of those services.

Although the United States cannot be bound beyond the actual authority conferred upon its agents by statute or regulation, see United States v. Carice, 341 F.2d 161, 166 (1965), the courts and our Office have recognized that in appropriate circumstances payment may be made for services rendered on a quantum meruit basis (the reasonable value of work or labor), or for goods furnished on a quantum valebat basis (the reasonable value of goods sold and delivered). 40 Comp. Gen. 447, 451 (1961). Recognition of a right to payment on this basis, however, requires a showing (1) that the Government received a benefit and (2) that the unauthorized action has been expressly or impliedly ratified by authorized contracting officials of the Government. Defense Mapping Agency, B-183915, June 25, 1975, 75-2 CPD 15; The Singer Company, B-183878, June 20, 1975, 75-1 CPD 406; B-166439, May 2, 1969.

A properly supported voucher, if received, will show that the Government received the benefit of the unauthorized line-haul transportation of the employee's household goods. However, the unauthorized act must be ratified by an authorized contracting officer of GAO.

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If the properly supported voucher is received from Beninato and if the services covered by the voucher are ratified by GAO's contracting officer, the voucher may be certified for payment of \$3,887.46. This amount is based on charges provided by the General Services Administration and the Department of State which would have applied if Beninato had followed the instructions in its contract with the Department of State. They are broken down this way:

To pier - 12,480 gross lbs. at \$1.92 CWT	\$ 239.62
1,620 cubic feet ÷ 40 cubic feet = 40.5 measurement tons (MT) at \$43 per MT	1,741.50
Bunker surcharge \$10 per MT	405.00
Isthmus handling charge at \$7.75 per MT	313.88
Container usage charge at \$5 per MT	202.50
Delivery and unpacking charges 9,120 lbs. at \$10.80 CWT	984.96

Attachment